

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *cy* D.C.

05 JUN -7 PM 2:51

ROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

PHIL HANNA,

Plaintiff,

vs.

AMERICAN REPUBLIC INSURANCE CO.,

Defendant.

No. 04-2897BV

ORDER GRANTING PLAINTIFFS' MOTION TO AMEND COMPLAINT

Before the court is the motion of the plaintiff, Phil Hanna, served on the defendant on May 13, 2005, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure for leave to amend his complaint to add an additional cause of action under 29 U.S.C. § 1132.

Pursuant to Local Rule 7.2(a)(2), responses to motions in civil cases are to be filed within fifteen days after service of the motion. The defendant has not filed a response to this motion, and the time for responding has now expired. Rule 7.2(a)(2) further provides that "[f]ailure to respond timely to any motion . . . may be deemed good grounds for granting the motion."

In the absence of any response by the defendant, the plaintiff's motion to amend his complaint is granted. The plaintiff shall file his amended complaint within ten (10) days of

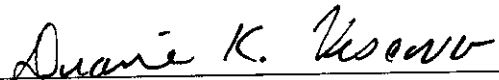
This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on *6/13/05*

34

the date of entry of this order and serve a copy on the defendant.

The court notes that the plaintiff failed to file a certificate of consultation with counsel for the opposing party as required by Local Rule 7.2(a)(1)(B). All non-dispositive motions must be accompanied by a certificate of counsel affirming that "after consultation between the parties to the controversy, they are unable to reach an accord as to all issues or that all other parties are in agreement with the action requested by the motion." *Id.* Local Rule 7.2(a)(1)(B) further provides that failure to file the certificate "may be deemed good grounds for denying the motion." In the future, failure to consult and to file a certificate of consultation will result in the motion being denied.

IT IS SO ORDERED this 7th day of June, 2005.



DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE.



Notice of Distribution

This notice confirms a copy of the document docketed as number 34 in case 2:04-CV-02897 was distributed by fax, mail, or direct printing on June 13, 2005 to the parties listed.

Kenneth A. Weber
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ- Nashville
211 Commerce St.
Ste. 1000
Nashville, TN 37201

Arthur F. Knight
BECKER FLEISHMAN BROWN & KNIGHT P.C.
P.O. Box 1710
Knoxville, TN 37901--171

Cynthia J. Cutler
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ
211 Commerce St.
Ste. 1000
Nashville, TN 37201

Honorable J. Breen
US DISTRICT COURT